

§ 309.45 When and how may a Tribe or Tribal organization request reconsideration of a disapproval action?

(a) Except as specified under paragraphs (g) and (h) of this section, a Tribe or Tribal organization may request reconsideration of the disapproval of a Tribal IV-D application, plan or plan amendment by filing a written Request for Reconsideration to the Secretary within 60 days of the date of the Notice of Disapproval.

(b) The Request for Reconsideration must include:

(1) All documentation that the Tribe or Tribal organization believes is relevant and supportive of its application, plan or plan amendment; and

(2) A written response to each ground for disapproval identified in the Notice of Disapproval, indicating why the Tribe or Tribal organization believes its application, plan or plan amendment conforms to the requirements for approval specified in applicable Federal statutes, regulations and office issuances; and

(3) Whether or not the Tribe or Tribal organization requests a meeting or conference call with the Secretary.

(c) After receiving a Request for Reconsideration that includes a request for a conference call or meeting, OCSE will determine whether to hold a conference call or a meeting with the Tribe or Tribal organization to discuss the reasons for disapproval of the application, plan, or plan amendment as well as the Tribe or Tribal organization's response. The Secretary will notify the Tribe or Tribal organization of the date and time of the conference call or meeting.

(d) A conference call or meeting under § 309.45(c) shall be held not less than 30 days nor more than 60 days after the date the notice of such call or meeting is furnished to the Tribe or Tribal organization, unless both parties agree in writing to another time.

(e) The Secretary will make a written determination affirming, modifying, or reversing disapproval of a Tribal IV-D program application, plan, or plan amendment within 60 days after the conference call or meeting is held, or within 60 days after the request for reconsideration that does not include a request for a meeting. This

determination shall be the final decision of the Secretary.

(f) The Secretary's determination that a Tribal IV-D application, new plan or plan amendment is not approvable remains in effect pending the reconsideration under this part.

(g) Disapproval of start-up funding, a request for waiver of the 100-child rule, and a request for waiver of the non-Federal Tribal share is not subject to administrative appeal.

(h) Where the Secretary believes an approved Tribal IV-D plan should be disapproved, he will notify the Tribe of his intent to disapprove the plan. If the Tribe waives its right to reconsideration under this section, the Tribe may request a pre-decision hearing with 60 days of the date of the Notice of Intent to Disapprove the plan. The hearing will utilize the procedures at 45 CFR part 213.

§ 309.50 What are the consequences of disapproval of a Tribal IV-D program application, plan or plan amendment?

(a) If an application or plan submitted pursuant to § 309.15 is disapproved, the Tribe or Tribal organization will receive no funding under § 309.65(a) or this part until a new application or plan is submitted and approved.

(b) If a IV-D plan amendment is disapproved, there is no funding for the activity proposed in the plan amendment.

(c) A Tribe or Tribal organization whose application, plan or plan amendment has been disapproved may re-apply at any time.

Subpart C—Tribal IV-D Plan Requirements

§ 309.55 What does this subpart cover?

This subpart defines the Tribal IV-D plan provisions that are required to demonstrate that a Tribe or Tribal organization has the capacity to operate a child support enforcement program meeting the objectives of title IV-D of the Act and these regulations, including establishment of paternity, establishment, modification, and enforcement of support orders, and location of noncustodial parents.